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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,874	03/23/2004	John F. Brewer	LSG.P0053	2677

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EXAMINER	
MERLINO, AMANDA H	

ART UNIT	PAPER NUMBER
2877	

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/806,874	BREWER ET AL.	
	Examiner	Art Unit	
	Amanda H. Merlino	2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *6/14/04 & 8/10/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Objections

Claim 6 objected to because of the following informalities: on line 2 of claim 6, it appears "outlet tube as" should read "outlet tube has". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sebok et al. (6,104,483).

With regards to claim 1, Sebok et al teaches of an optical flow cell a shell (52) in accordance with figures 2 and 3 having a first portion (one half of the shell) and a second portion (opposite half of the shell), wherein said first portion provides a light entry aperture (64), and said second portion provides an imaging aperture (66); an inlet tube (54) and an outlet tube (58) retained between said first portion and said second portion; and a viewing assembly (70) retained between said first portion and said second portion, wherein said viewing assembly includes a reference plate (72) and a flow channel (76), said flow channel fluidly communicating with said inlet tube and said outlet tube.

With regards to claim 2, Sebok et al teaches wherein said reference plate (72) extends from said shell, and serves as a repeatable reference point to properly position the optical flow cell (col 5; lines 31-38).

With regards to claim 3, Sebok et al teaches said reference plate is separated from a sealing plate by bonding strips, said flow channel being formed between said bonding strips (col 4: lines 36-39)

With regards to claim 4, Sebok et al teaches of said first portion and said second portion each include channels adapted to accommodate said viewing assembly, when said viewing assembly is retained between said first portion and said second portion (see figure 3).

With regards to claim 5, Sebok et al said first portion includes an inlet tube receiving notch and an outlet tube receiving notch and said second portion includes an inlet tube receiving notch and an outlet tube receiving notch, and when said inlet tube and said outlet tube are retained within said shell, said inlet tube is positioned between said inlet tube receiving notches and said outlet tube is positioned between said outlet tube receiving notches (see figures 2 and 3).

With regards to claim 6, Sebok et al teaches wherein said inlet tube has a circular cross section, said outlet tube as a circular cross section, and said flow channel has a rectangular cross section, said first portion and said second portion configured to smoothly transition flow of a sample fluid material between said first outlet tube and said flow channel and between said flow channel and said second outlet tube. (col 4; lines 52-63; figure 3).

With regards to claim 7, Sebok et al teaches further comprising a first channel provided on said first portion, and semi-cylindrical transition notches oppositely oriented on either side of said channel, a second channel provided on said second portion, and first specially-configured transition notches are oppositely oriented on either side of said second channel, said specially-configured transition notches each including a tapered portion, and said semi-cylindrical transition notches and said first specially-configured transition notches opposed to one another on either side of said channel when said optical flow cell is assembled. (see figure 3)

With regards to claim 8, Sebok et al teaches wherein second specially-configured transitions notches are provided adjacent said second semi-cylindrical transition notches on said first portion, said second specially-configured transition notches opposing a plate of said viewing assembly when said optical flow cell is assembled. Transitional notches are provided for Tapered ends (56). (see figure 3).

With regards to claim 9, Sebok et al teaches optical flow cell in accordance with figures 2 and 3, comprising: a shell (52) having a first portion (one half of the shell) and a second portion (opposite half of the shell) , wherein said first portion provides a light entry aperture (64) , and said second portion provides an imaging aperture (66); an inlet tube (54) and an outlet tube retained between said first portion and said second portion; and a viewing assembly (70) retained between said first portion and said second portion, said viewing assembly including a reference plate (74) and a flow channel (76), said flow channel fluidly communicating with said inlet tube and said outlet tube, wherein said inlet tube has a circular cross section, said outlet tube as a circular cross

section, and said flow channel has a rectangular cross section (col 4; lines 52-63), said first portion and said second portion configured to smoothly transition flow of a sample fluid material between said first outlet tube and said flow channel and between said flow channel and said second outlet tube.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Canty et al (6,771,366) teach of a flow comprising a first and second portion (12 and 13) wherein said first portion provides a light entry aperture and second portion provides an imaging aperture. Refer to figures 1 and 2.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda H Merlino whose telephone number is 571-272-2421. The examiner can normally be reached on Monday and Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J Toatley, Jr. can be reached on 571-272-2800 ext 77. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Amanda H Merlino
Patent Examiner
Art Unit 2877
May 18, 2006

Gregory J. Toatley, Jr.
Supervisory Patent Examiner
5/19/06